



# The Attorney General of Texas

February 1, 1982

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Honorable Stephen Davidchik  
Grayson County Attorney  
Third Floor, Courthouse  
Sherman, Texas 75090

Dear Mr. Davidchik:

You have requested our decision under the Open Records Act, article 6252-17a, V.T.C.S., as to whether birth and death records kept by a county clerk are excepted from disclosure.

Section 3(a)(15) of the Open Records Act excepts "birth and death records maintained by the Bureau of Vital Statistics in the State of Texas." In Attorney General Opinion H-115 (1973), this office determined that the above exception applies to such records in the custody of the county clerk "to the extent that he maintains records of birth and death of the type maintained by the State Bureau of Vital Statistics." The opinion reasoned:

To hold otherwise would present the anomalous situation that the State Registrar of Vital Statistics could not produce a record but that a local registrar or a county clerk could.

Attorney General Opinion H-115 (1973) overlooked a statute which was first enacted in 1836. Article 6600, V.T.C.S., provides:

The county clerk shall give attested copies whenever demanded of all papers recorded in his office; and he shall receive for all such copies, such fees as may be provided by law.

It is established that the Open Records Act does not authorize the withholding of any information which is otherwise required to be disclosed. Open Records Decision No. 275 (1981). See also Open Records Decision No. 18A (1974) at 8. Since article 6600 requires a county clerk to make available copies of records filed in his office, including birth and death records, we believe it is clear that section 3(a)(15) does not authorize the withholding of such records in the

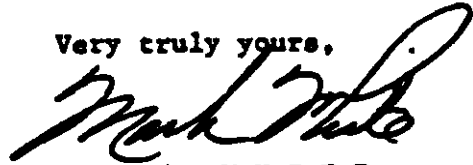
This Opinion  
Overrules Original  
H-115 at 8  
Conflicts

Open Records Decision No. 307

Re: Whether birth and death records kept by county clerk are confidential under the Open Records Act

custody of a county clerk. Accordingly, birth and death records kept by a county clerk are not excepted from disclosure under any provision of the Open Records Act. Attorney General Opinion H-115 (1973) is overruled to the extent of conflict.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Mark White', with a large, stylized loop at the end.

MARK WHITE  
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APPROVED:  
OPINION COMMITTEE

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